

Revised Uniform Law on Notarial Acts Workgroup
Meeting Minutes
Tuesday, September 17, 2019

Members in Attendance:

Assistant Secretary of State Kathy Smith; Toby Musser; Penny Reed; Denise Pope; Ken Krach; Jean Quattlebaum; Michael Kasnic; Ricky Adams; Kathie Connelly; Bill O'Connell; Michael Chodos; Rick Triola; Josaphine Yuzuik; Marquita Lewis; Michael Schlein.

Welcome:

Assistant Secretary Smith, called the meeting to order at 1:05P.M. She welcomed everyone to the seventh and final meeting of the Revised Uniform Law on Notarial Acts (RULONA) Workgroup.

Introductions:

Attendance was taken by Michael Schlein. A quorum was established.

Approval of Minutes from June 11, 2019

Assistant Secretary Smith asked the Workgroup members if everyone reviewed the August 13, 2019 minutes. Members acknowledged they did. She asked if there were any edits. No edits were suggested. Assistant Secretary Smith asked for a motion to approve the minutes. Jean Quattlebaum made a motion to approve. Michael Kasnic seconded the motion. Assistant Secretary Smith called for a vote. The motion to approve the minutes passed unanimously.

Subgroup 1 Report:

Michael Schlein, reported on behalf of Subgroup 1 leader Frieda McWilliams. Subgroup 1 has determined that Sections 1-8 of RULONA and the related parts of SB678 are sufficient and there are no recommended edits.

Assistant Secretary Smith invited questions and comments from the Workgroup.

No questions were asked nor comments offered by any member of the Workgroup.

Subgroup 2 Report:

Subgroup 2 Reporter, Michael Kasnic, summarized their work. The subgroup reports their recommendations as follows:

1. The Secretary of State should use the annual budget process to obtain funds needed to implement SB678.
2. A notary should be able to charge a fee of \$25 per notarization.
3. The fee to apply to become a notary is low. The cost of the new requirement of education/testing will increase the cost to become a notary.
4. There should not be an additional license to become a remote notary. However, someone should have to notify the Secretary of State prior to acting as a remote notary; a stepped single license.

5. The subgroup has concerns about rogue notaries that could commit fraud. Training related to remote notaries needs to convey that notaries can refuse to perform notarial acts if they have concerns.

Assistant Secretary Smith asked if the traditional notary would gain an advantage over the remote notary by being allowed to charge the same fee. In response to Mr. Kasnick's remark that signers can "shop around" for a lower cost notary, she asked if a Signer would know that they could shop around to find the lowest cost notary.

Assistant Secretary Smith invited questions and comments from the Workgroup.

Marquita Lewis: Stated that often, people are in a hurry to get a document notarized and will pay whatever it is they are charged. After paying for the notarization, they call the Secretary of State's Office to complain about being overcharged.

Ken Krach: Explained that one of the other factors in allowing a traditional notary to charge the same fee as a remote notary is that the traditional notary has the burden of travel. While a notary can recoup mileage, the cost of the time is not fully recovered.

Bill O'Connell: Stated that the current law allows mileage to be charged at the federal reimbursement rate. In a real estate transaction, consumers shop for a title insurance producer. The title insurance producer charges a settlement fee, not a separate fee for notarization. He does not see the flat fee as an issue; that most people can get a notarization from their bank for free.

Josaphine Yuzuik: Expressed concern that consumers are in an unequal bargaining position when allowing the market to determine what a notary charges.

Subgroup 3 Report:

Subgroup 3 Reporter, Toby Musser, summarized their work. The subgroup reported their findings as follows:

1. Amend General Provisions Article 4-332 to allow for someone to use their primary business address as the publicly available address to limit access to someone's home address. However, if no business address is provided, the home address would become the publicly available address.
2. Amend SB678 to include an express reference to the Maryland Personal Information Protection Act.
3. While a separate license should not be required to perform remote notarizations; something to indicate one's ability to remote notarizations should be provided to the Secretary of State.
4. The Secretary of State should publish notaries' statuses. Remote notary providers should be required to check against the list prior to allowing a remote notarial act to occur to confirm the notary is in good standing.
5. The Secretary of State should have the power to order the suspension of a license within 10 days after the conviction or within 10 days following release from incarceration as a result of conviction.

6. The Secretary of State should provide a minimum standards document, or checklist, to create a baseline uniformity for Senators to use when approving applications.

Assistant Secretary Smith: Asked if subgroup 3 had any thoughts about what may be contained in a minimum standards document that the Secretary of State could share with notaries.

Toby Musser: The only recommendation about content for that document was to provide the verbiage from the law to the Senators to assist in their review of a notary application.

Assistant Secretary Smith invited questions and comments from the Workgroup.

No questions were asked nor comments offered by any member of the Workgroup.

Subgroup 4:

Subgroup 4 Reporter, Kathie Connelly summarized their work. The subgroup reported their findings as follows:

1. The infrastructure of the notary division must be fully modernized, staffed, and funded to effectively regulate SB678 when it takes effect.
2. Stronger enforcement and education of notaries is necessary. SB678 does provide for this to an extent.
3. Errors and Omissions Insurance should not be required.
4. While recordkeeping is satisfactorily addressed, a driver's license number or identification number is another strong indicator of positive identification. The Secretary of State could allow for this to be a method of recordkeeping by regulation.
5. The notary application fee is too low. This will be increased because of the new cost of testing and education to become a notary.
6. The Secretary of State should create guidelines for safety from fraud and identity theft in materials that are to be provided to notaries.
7. A clearer process should be created to change a notary's name. The Notary Handbook should be updated to include this process.
8. The fee that a notary can charge for a notarization should be increased.
9. A reasonable fee for education and testing should be passed on to notary applicants.

Assistant Secretary Smith: Asked for clarification on what else is needed for guidance on how to change one's name.

Kathie Connelly: The Secretary of State needs to communicate the process to change a name better than it currently does in the Notary Handbook.

Assistant Secretary Smith invited questions and comments from the Workgroup.

Bill O'Connell: Stated that there was a conflict between the reports of subgroups 2 and 4. He asserted that there was a conflict between subgroup 2's statement about the bill not being the place to obtain funding and subgroup 4's statement about needing funding to enact the requirements of SB678. He stated that funding was debated issue in the legislature during the debate of SB678.

Kathie Connelly: Explained that there is no conflict. Subgroup 2 recommends that the Secretary of State obtain funding using the budget process. Subgroup 4 states that the Secretary of State needs to be properly funded.

Bill O'Connell: appreciated the clarification and acknowledged there was no conflict.

Assistant Secretary Smith: Clarified the funding discussion; explaining that the Department of Information Technology (DoIT) incorrectly reported the capacity to add required features and the condition of notary database. DoIT acknowledged their mistake and submitted a revised report stating that the database requirements of SB678 exceeds the current capabilities of notary database and is structurally incapable of meeting the requirements of SB678 due to the instability and constant failures of the legacy database system and that additional fields could not be added to the existing database. DoIT provided a corrected report, however, the corrected report was provided after the Bill crossed over to the House, it was not provided in time for the Senate to review. The Senate did not have DoIT's corrected information when determining passage of the bill.

Questions/Comments:

Assistant Secretary Smith stated that a recommendation was made to limit remote notarizations initially to the Real Estate, Land Title Mortgage, Bankers, etc., the only known stakeholders, no other group expressed interest in or voiced a comment about Remote Notarizations. She advised that the recommendation will be included the final report and presented to the Secretary of State for consideration.

Assistant Secretary Smith invited questions and comments from the Workgroup.

No questions were asked nor comments offered by any member of the Workgroup.

Assistant Secretary Smith: Thanked the Workgroup for their diligence, efforts, and commitment to the important work undertaken by the RULONA Workgroup. She shared that a final report of the RULONA Workgroup will be completed and presented to the Secretary of State for his review. She advised that the final report will be e-mailed to each RULONA Workgroup participant, as she had in December 2018 at the conclusion of the Notary Workgroup.

Adjournment:

Assistant Secretary Smith, again, thanked everyone for their hard work, contributions, and participation in the RULONA Workgroup.

The meeting adjourned at 1:52P.M.